

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

VERNON MARCUS COLEMAN,

Plaintiff,

v.

Civil No. 2:19-CV-10630

HONORABLE VICTORIA A. ROBERTS

UNITED STATES DISTRICT JUDGE

ERIK JOHANSENE AND
RAYMOND BUCCIARELLI,

Defendants,

**ORDER DIRECTING THE CLERK OF THE COURT TO TRANSFER THE
APPLICATION TO PROCEED WITHOUT PREPAYING FEES AND COSTS ON
APPEAL (Doc. 21) TO THE UNITED STATES COURT OF APPEALS FOR THE
SIXTH CIRCUIT**

Plaintiff filed two separate civil rights complaints. The cases were consolidated into one action. On April 18, 2019, the complaint was dismissed without prejudice for failing to state a claim upon which relief can be granted. *Coleman v. Johansene*, No. 2:19-CV-10572, 2019 WL 1746256 (E.D. Mich. Apr. 18, 2019).

On August 5, 2019, Plaintiff filed a notice of appeal with the United States Court of Appeals for the Sixth Circuit. (ECF 19). Plaintiff also filed an application to proceed without prepayment of fees and costs on appeal with this Court. For the reasons stated below, the Court orders that the application be transferred to the United States Court of Appeals for the Sixth Circuit.

A notice of appeal generally “confers jurisdiction on the court of appeals and divests the district court of control over those aspects of the case involved in the appeal.”

Marrese v. American Academy of Orthopaedic Surgeons, 470 U.S. 373, 379 (1985)(citing *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982)(per curiam)); *Workman v. Tate*, 958 F. 2d 164, 167 (6th Cir. 1992). Plaintiff’s notice of appeal divests this Court of jurisdiction to consider his motion that he be permitted to proceed *in forma pauperis* in the Sixth Circuit Court of Appeals. See *Johnson v. Woods*, No. 5:12–11632; 2013 WL 557271, * 2 (E.D. Mich. Feb. 13, 2013); *Glick v. U.S. Civil Service Com’n*, 567 F. Supp. 1483, 1490 (N.D. Ill. 1983); *Brinton v. Gaffney*, 560 F. Supp. 28, 29-30 (E.D. Pa. 1983). Jurisdiction of this action was transferred from the district court to the Sixth Circuit Court of Appeals upon the filing of the Notice of Appeal; Plaintiff’s application to proceed *in forma pauperis* on appeal should be addressed by the Sixth Circuit. In the interests of justice, this Court orders that the application to proceed without prepayment of fees and costs be transferred to the Sixth Circuit for that court’s consideration. See *Baker v. Perry*, No. 2:12–10424; 2012 WL 6097323, * 2 (E.D. Mich. Dec. 6, 2012).

IT IS ORDERED that:

The Clerk of the Court transfer Plaintiff’s “Application to Proceed Without Prepaying Fees and Costs on Appeal” (Doc. 21) to the United States Court of Appeals for the Sixth Circuit pursuant to 28 U.S.C. § 1631.

s/ Victoria A. Roberts

HON. VICTORIA A. ROBERTS
UNITED STATES DISTRICT JUDGE

Dated: 9/26/19